

GERARD C. RICKHOFF



DONNA KAY MCKINNEY

COUNTY CLERK & DISTRICT CLERK  
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Case #2017CI08592**Name:** ETHYL SMITH**Date Filed:** 05/10/2017**Case Status:** PENDING**Plaintiff Type:** PLAINTIFF**Court:** 407**Docket Type:** MOTOR VEHICLE ACCIDENT**Business Name:****Style:** ETHYL SMITH**Style (2):** vs US FOODS

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## Case History

*Currently viewing 1 through 4 of 4 records*

Sequence	Date Filed	Description
P00003	6/9/2017	ORIGINAL ANSWER OF US FOODS, INC
S00001	5/12/2017	CITATION US FOODS ISSUED: 5/12/2017 RECEIVED: 5/18/2017 EXECUTED: 5/18/2017 RETURNED: 5/26/2017
P00002	5/10/2017	SERVICE ASSIGNED TO CLERK 1
P00001	5/10/2017	PETITION

FILED  
5/10/2017 10:37:04 AM  
Donna Kay McKinney  
Bexar County District Clerk  
Accepted By: Edgar Garcia

citpps-sac1

**2017CI08592**

CAUSE NO. \_\_\_\_\_

ETHYL SMITH

Plaintiff

IN THE DISTRICT COURT

VS.

407th JUDICIAL DISTRICT

U.S. FOODS

Defendant

BEXAR COUNTY, TEXAS

**PLAINTIFFS' ORIGINAL PETITION**

TO THE HONORABLE JUDGE OF SAID COURT:

Now comes, ETHYL SMITH, hereinafter referred to as Plaintiff, complaining of U.S. FOODS hereinafter referred to as Defendant, and for cause of action would respectfully show the Court as follows:

**I.**

Plaintiffs are resident of San Antonio, Bexar County, Texas.

The Defendant, U.S. FOODS, is a business based in San Antonio, Bexar County, Texas and service of citation may be obtained on this defendant by serving the registered agent, C.T. CORPORATION SYSTEM, 1999 Bryant Street, Suite 900, Dallas, Texas 75701.

This is a level 3-discovery case.

**II.**

Venue is proper in Bexar County pursuant to the Texas Civil Practice and remedies Code Section 15.001 as all or part of the cause of action accrued in Bexar County.

III.

Plaintiff alleges that on or about December 9, 2016, Plaintiff, ETHYL SMITH was a passenger on VIA bus #24 when Defendant struck the VIA bus on the side where Plaintiff was seated. The accident happened at Commerce Street and Alamo Street when the Defendant struck the VIA bus.

IV.

Plaintiff allege the collision in question was caused by the following acts or omissions of negligence on the part of the Defendant, U.S. FOODS and that each and all of such acts or omissions of negligence were a proximate cause of the collision:

- a. In failing to keep a proper lookout;
- b. Driver Inattention;
- c. Faulty evasive actions
- d. Failure to timely apply brakes;

V.

This action is maintained pursuant to any laws under the State of Texas or common law remedy specified in the Petition to recover all the damages which are due to the Plaintiff because of this collision. Plaintiff would allege that they are entitled to damages listed below:

- 1) Physical pain and mental anguish in the past;
- 2) Physical pain and mental anguish in the future;
- 3) Physical impairment in the past;
- 4) Physical impairment in the future;
- 5) Medical expenses in the past; and
- 6) Medical expenses in the future.

VI.

The Plaintiff further request that he be awarded prejudgment and post judgment interest on all accrued damages in an amount allowed by law from the date of this occurrence to the date of trial.

WHEREFORE, PREMISES CONSIDERED, Plaintiff pray that citation and notice issue in accordance with the law; that the Plaintiff recover the actual damages; that the Plaintiff recover pre and post judgment interest; and that the Plaintiff recover costs of this proceeding; and that Plaintiff have other and such other and further relief to which she may be justly entitled but not exceed \$1,500,000.

Respectfully submitted,

LAW OFFICE OF SAM BELTRAN  
111 Soledad, Suite 1235  
San Antonio, Texas 78205  
(210) 225-5511 (office)  
(210) 225-7916 (fax)

BY: 

SAM BELTRAN  
SBN: 02112100  
Attorney for Plaintiff

PRIVATE PROCESS

Case Number: 2017-CI-08592



2017CI08592 500001

ETHYL SMITH

VS.

US FOODS

(Note: Attached Document May Contain Additional Litigants.)

IN THE DISTRICT COURT  
407th JUDICIAL DISTRICT  
BEXAR COUNTY, TEXAS

**CITATION**

"THE STATE OF TEXAS"

Directed To: US FOODS

BY SERVING ITS REGISTERED AGENT, CT CORPORATION SYSTEM

*delivered  
05/16/17  
100 PM*

"You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10:00 a.m. on the Monday next following the expiration of twenty days after you were served this CITATION and ORIGINAL PETITION, a default judgment may be taken against you." Said ORIGINAL PETITION was filed on the 10th day of May, 2017.

ISSUED UNDER MY HAND AND SEAL OF SAID COURT ON THIS 12TH DAY OF MAY A.D., 2017.

SAM R BELTRAN  
ATTORNEY FOR PLAINTIFF  
111 SOLEDAD ST 1235  
SAN ANTONIO, TX 78205-2230



Donna Kay McKinney  
Bexar County District Clerk  
101 W. Nueva, Suite 217  
San Antonio, Texas 78205

By: Krystal Gonzalez, Deputy

ETHYL SMITH  
VS  
US FOODS

**Officer's Return**

Case Number: 2017-CI-08592  
Court: 407th Judicial District Court

I received this CITATION on \_\_\_\_\_ at \_\_\_\_\_ o'clock \_\_\_\_\_ M. and ( ) executed it by delivering a copy of the CITATION with attached ORIGINAL PETITION the date of delivery endorsed on it to the defendant, \_\_\_\_\_, in person on the \_\_\_\_\_ at \_\_\_\_\_ o'clock \_\_\_\_\_ M. at \_\_\_\_\_ or ( ) not executed because \_\_\_\_\_

Fees: \_\_\_\_\_ Badge/PPS #: \_\_\_\_\_ Date certification expires: \_\_\_\_\_  
\_\_\_\_\_ County, Texas

By: \_\_\_\_\_

OR: VERIFICATION OF RETURN (If not served by a peace officer) SWORN TO THIS \_\_\_\_\_

NOTARY PUBLIC, STATE OF TEXAS

OR: My name is \_\_\_\_\_, my date of birth is \_\_\_\_\_, and my address is \_\_\_\_\_ County.

I declare under penalty of perjury that the foregoing is true and correct. Executed in \_\_\_\_\_ County, State of Texas, on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

*CMH  
05/16/17  
926 am*

Declarant

ORIGINAL (DK002)

**CAUSE NO. 2017CI08592**

<b>ETHYL SMITH</b>	<b>§</b>	<b>IN THE DISTRICT COURT</b>
	<b>§</b>	
<b>v.</b>	<b>§</b>	<b>407<sup>TH</sup> JUDICIAL DISTRICT</b>
	<b>§</b>	
<b>US FOODS, INC.</b>	<b>§</b>	<b>BEXAR COUNTY, TEXAS</b>

**DEFENDANT US FOODS, INC.'S ORIGINAL ANSWER**

Defendant US Foods, Inc. ("Defendant") files its Original Answer to Plaintiff's Original Petition as follows:

**I.**

**GENERAL DENIAL**

Pursuant to Texas Rule of Civil Procedure 92, Defendant generally denies, each and every, all and singular, the material allegations contained in Plaintiff's most recent petition, and any amendments thereto, and demands strict proof thereof. Defendant reserves its rights to plead further at a later date.

**II.**

**AFFIRMATIVE DEFENSES**

1. Plaintiff's entitlement to relief is limited due to her failure to mitigate her damages.
2. Any recovery for Plaintiff must be reduced by the comparative negligence, fault, responsibility or causation attributable to Plaintiff or responsible third parties and/or settling persons.
3. The incident complained of by Plaintiff was caused solely by negligence and/or carelessness on the part of Plaintiff.

4. Plaintiff's claims are barred because any alleged damages or injuries to Plaintiff were caused by an intervening cause, a superseding cause, a new and independent cause, an unforeseeable cause and/or a preexisting cause unrelated to any conduct of Defendant.

**III.**

**PRAYER**

WHEREFORE, PREMISES CONSIDERED, Defendant request that Plaintiff take nothing by the suit and that the Defendant recover costs of court; and that Defendant have such other and further relief, in Defendant's favor, to which it may be justly entitled.

Respectfully submitted,

By: /s/ S. Wesley Butler  
**Craig A. McDougal**  
State Bar No. 13569850  
cmcdougal@kilpatricktownsend.com  
**S. Wesley Butler**  
State Bar No. 24045593  
wbutler@kilpatricktownsend.com

**KILPATRICK TOWNSEND & STOCKTON L.L.P.**  
2001 Ross Ave., Suite 4400  
Dallas, Texas 75201  
Telephone: (214) 922-7100  
Telecopier: (214) 922-7101

**ATTORNEYS FOR DEFENDANT  
US FOODS, INC.**



**CERTIFICATE OF SERVICE**

This is to certify that a true and correct copy of the foregoing has been served upon all counsel of record via certified mail, rrr and/or electronic service, on this 9<sup>th</sup> day of June, 2016.

Sam Beltran  
Law Offices of Sam Beltran  
111 Soledad, Suite 1235  
San Antonio, TX 78205

/s/ S. Wesley Butler